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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,002	02/20/2002	Gordon D. Blacklock	02-004	4733

7590  
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01/15/2004

EXAMINER

LEWIS, RALPH A

ART UNIT PAPER NUMBER

3732

DATE MAILED: 01/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/078,002

Applicant(s)

BLACKLOCK, GORDON D.

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-12 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fenick (US 5,133,660).

Fenick discloses in Figure 15 a drill guide comprised of a drill block 29 having first and second drill guide holes and a stent 30 (i.e. bushing) adapted for insertion into the guide holes for guiding a dental drill bit 31. In Figure 15 the guide holes are illustrated at an angle to one another. The angular relationship of the guide holes with respect toward one another would occur inherently in the trajectory line determination disclosed at column 6, lines 1-45). In regard to claim 6, the “proximate” limitation is relative.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cascione et al (US 5,800,168).

Cascione et al disclose applicant's second claimed embodiment with a guide block 4,8, stent 1 and pivot 2. The Cascione et al device functions in the manner disclosed by applicant.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5, 6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fenick (US 5,133,660).

To the extent that Fenick doesn't positively teach that the two guide holes in figure 15 are at an angle with respect to one another, it is noted that one of ordinary skill in the art would have found the angling of one guide hole with respect to the other obvious in order to achieve the optimal trajectory lines for each implant as discussed at column 6, lines 1-45. In regard to claim 5, the forming of stops to prevent bushings 30 from falling out the bottom side would have been obvious to one of ordinary skill in the art. In regard to method claim 9, the checking, double checking and adjustment of the Fenick device to ensure its proper position would have been obvious to the ordinarily skilled artisan as a matter of routine.

Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cascione et al (US 5,800,168).

The checking, double checking and adjustment of the Cascione et al device to ensure its proper position would have been obvious to the ordinarily skilled artisan as a matter of routine.

**Prior Art**

Applicant's information disclosure statement of February 20, 2002 has been considered an initialed copy enclosed herewith.


Siebrandt (US 2,181,746), Slivenko et al (US 4,325,373), Asnis et al (US 4,450,835), Fenick (US 5,015,183), Dahl et al (US 5,306,278), Pompa (US 5,320,529), Knapp (US 5,688,283), Kennedy (US 5,718,579), Di Sario (5,769,636), Klein et al (5,967,777) and Champleboux (US 6,296,483) are made of record.

**Allowable Subject Matter**

Claim 4 is objected to as being dependent on a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of the claims from which it depends.

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R. Lewis  
January 8, 2004

  
Ralph A. Lewis  
Primary Examiner  
AK3732